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TIMMONS AND COMPANY, INCORPORATED

1850 K STREET, N. W., WASHINGTON, D. C. 20006 (202) 331-1760 FAX (202) 822-9376

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JOHN S. ORLANDO
VICE PRESIDENT

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December 7 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Dear Mr. Caton:

The attached letter was delivered to Commissioner Jim Quello.

Two copies are being provided to the Secretary's office in accordance with the Commissioner's ex-parte rules.

Sincerely,



John S. Orlando

The Honorable William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, DC 20554

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 7, 1994

HAND DELIVER

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WILLIAM E. TIMMONS
Chairman, Executive
Committee
TOM C. KOROLOGOS
President
WILLIAM H. CABLE
Vice President
MARY A. SIDLEY
Vice President
BRYCE L. HARLOW
Vice President
JOHN S. ORLANDO
Vice President
MICHAEL J. BATES
Vice President
ELLEN BOYLE
Vice President

RE: PR Docket No. 93-61
Automatic Vehicle Monitoring

Dear Commissioner Quello:

Pending before the Commission is a Notice of Proposed Rulemaking in the above-referenced proceeding which would authorize a new service, the Location and Monitoring Service ("LMS"), in the 902-928 MHz frequency band.

I understand that if LMS is authorized as proposed in the Notice of Proposed Rulemaking, unlicensed Part 15 devices operating in the same band will cause interference to LMS. I am informed that, under your rules, if these unlicensed devices cause such interference, LMS operators can request the Commission to force them to stop operating.

I am concerned that the Commission may make a premature decision this year, before it fully understands all of the possible consequences. Such a decision might prohibit the development of the new and exciting technologies Part 15 promises. It also would create a chilling effect on the Part 15 industry by sending a message to potential entrepreneurs and investors that the Commission does not support Part 15 operations and the critical function they serve.

As I am sure you are aware, on October 6, 1994, Chairman John D. Dingell filed House Report 103-844 to the FCC Authorization Bill. This report included language expressing Congressional concern regarding this matter. I have taken the liberty of enclosing a copy of the relevant section for your review.

Part 15 devices offer a wide range of communications capabilities, many of which result in huge energy and monetary savings to the American consumer, help improve the quality of the environment, contribute to the well-being of the economy and are generally important for this country's future. Cost savings are one of the main reasons that many public utility commissions across America have authorized their regulated utilities to install Part 15 devices using rate-payer money.

For example, you have been visited by representatives of Consumer's Power in Michigan who told you about the requirements for and associated savings of Part 15 automatic meter reading devices. You have also been told by Southern California Edison Company that their Part 15 system can save their ratepayers \$40 million annually.

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Med-E-Systems, which has its first operational system located in Dearborn, Michigan, demonstrates how wireless, Part 15 data transmission facilities help to provide better medical treatment and save valuable health care dollars.

Part 15 devices can provide low cost interconnection to the NII from our nation's classrooms, without the need to "wire" each classroom. I noticed that earlier this week Vice President Al Gore and Representative Ed Markey clearly expressed their desire to link classrooms to the information highway. Part 15 devices can provide this at a very low cost. Do not make a decision that would prevent this.

Manufacturers of Part 15 devices operating in the 902-928 MHz frequency band are absolutely convinced that the creation of LMS as proposed will require them to cease manufacturing these devices and will cause losses of existing investments and jobs, not only because of operational problems, but also because of the chilling effect the Commission's action will have on Part 15 research, development and investment.

Adoption of LMS as proposed may cause many consumers not only to have to stop using the millions of Part 15 devices that are already in place, but also deny them the opportunity of taking advantage of new devices about to become available such as digital cordless phones and high speed, wide area, wireless data devices.

A very serious question is raised with relation to how the Commission would propose to force the millions of unlicensed devices to cease operating, assuming the Commission created LMS as proposed in the Notice of Proposed Rulemaking. It would seem to me that such an undertaking would require a massive commitment of financial and personnel resources which the Commission might put to better use.

The FCC encouraged manufacturers of Part 15 devices to locate in the 902-928 MHz part of the radio spectrum, and encouraged them to create new and better services to serve the public. It seems to me to be manifestly unfair to require some of these devices, developed with the encouragement of the Commission, to cease operating in that part of the radio spectrum now that they have invested considerable time and money in developing products that operate extremely efficiently and effectively and share the spectrum well with other users, with an absolute minimum amount of regulation and public resources.

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On the other hand, LMS systems, which are incapable of sharing and require exclusive spectrum, have been deployed very sparingly, in only six cities, despite the fact that rules have been in place for over 20 years for their operation. In addition, LMS offers only limited services, and those services are being supplied by other technologies, such as GPS, in other parts of the radio spectrum in a much more efficient manner.

It is puzzling why the FCC sees a need for LMS at the expense of those millions of Americans who benefit from the Part 15 technology. The market has spoken -- Part 15 devices have gained widespread acceptance, and are providing critical and cost-saving communications capabilities. The LMS proponents are requesting the Commission to reset the market so that they can have yet another opportunity to attempt to have their services commercially viable.

Please be very careful that whatever is done to resolve this proceeding does not destroy the Part 15 industry. A decision which either directly or indirectly resolves this through height restrictions would be particularly harmful to the industry.

I hope you will consider reviewing this issue more thoroughly and withhold a decision at this time.

Sincerely,

A handwritten signature in black ink, appearing to read 'John S. Orlando', with a long, sweeping underline that extends to the left.

John S. Orlando

The Honorable James Quello
Commissioner
Federal Communications Commission
1919 M Street, NW
Room 802
Washington, DC 20554

Enclosure

FEDERAL COMMUNICATIONS COMMISSION
AUTHORIZATION ACT OF 1994

OCTOBER 6, 1994.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

REPORT

[To accompany H.R. 4522]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 4522) to amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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frequencies are quickly relocated to other regions of the radio spectrum.

Common carrier funding mechanisms

The Committee also wants to stress that as the Commission establishes funding mechanisms to be imposed on the common carrier industry, such mechanisms should recognize the reality of the communications marketplace, which is characterized by both facilities-based providers and resellers. Any funding mechanism that imposes charges on both resellers and facilities-based providers should be rationalized so that it does not result in a "double-counting" of the fee imposed on resellers. The Committee is aware that the Telecommunications Relay Service fund recognizes no such distinction between resellers and facilities-based providers. As the Commission develops new funding mechanisms, the Committee believes that it must pay heed to the reality of the marketplace and not result in an unfair "double-counting" on some telecommunications providers. Both resellers and facilities-based providers must contribute equitably to any industry-wide funding mechanism, and the Commission should take pains to ensure that all providers of services share the obligation to bear a fair share of the cost. As part of that process, the Commission may want to review the funding mechanism for Telecommunications Relay Service to determine whether it should be modified in light of the new funding mechanism.

Location monitoring services

The Committee is aware that the Commission has before it a proceeding to reallocate a portion of the band currently utilized exclusively by unlicensed devices registered pursuant to Part 15 of the Commission's Rules. Given the many competing demands for new allocations for a variety of different uses, coupled with the congestion in many bands that lead to requests for expansions, the Committee recognizes that the Commission is often faced with a Hobson's Choice when making allocation decisions.

In this case, however, a major consideration in the Commission's deliberations must be the current deployment of these devices throughout the country. There are literally millions of these devices in use in virtually every home—cordless telephones, automatic garage door openers, baby monitors, as well as meter reading devices that have the potential to save both money and energy.

These devices are not cheap. An allocation decision that has the effect of rendering useless millions of these devices—many of which cost \$200 or more—would cause a significant number of American households a real hardship.

The citizens who purchase these devices are well aware that the Commission's rules do not protect against harmful interference. However, there is a logical expectation that this lack of protection extends only to interference caused by similar Part 15 devices.

It is the Committee's expectation that the problems raised in this proceeding can be solved in a manner that is acceptable to the millions of people who own and operate Part 15 devices, and to the proponents of the proposed Location Monitoring Service. The Com-

mission should proceed expeditiously to establish a regulatory structure that protects the interests of each.

HEARINGS

The Committee's Subcommittee on Telecommunications and Finance held a hearing on H.R. 4522 on May 26, 1994. Testimony was received from FCC Chairman Reed E. Hundt, Commissioners James H. Quello, Andrew C. Barrett, Rachelle B. Chong, and Susan Ness.

COMMITTEE CONSIDERATION

On July 14, 1994, the Subcommittee on Telecommunications and Finance met in open session and ordered reported the bill H.R. 4522, as amended, by a voice vote. On August 5, 1994, the Committee met in open session and ordered reported the bill H.R. 4522, as amended, by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Subcommittee held oversight hearings and made findings that are reflected in the legislative report.

COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the cost incurred in carrying out H.R. 4522 would be \$188.4 million in FY 1995 in direct outlays. \$95,600,000 in FY 1995 will be collected from entities regulated by the Commission, which funds will be retained by the Commission and utilize to underwrite the cost of Commission policy and rulemaking, enforcement, international and public information service activities. In subsequent fiscal years, the regulatory fees contained in H.R. 4522 will rise or fall depending on the amount appropriated for these four activities.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4522, the Federal Communications Commission Authorization Act of 1994.

Because enactment of H.R. 4522 would affect both direct spending and receipts, pay-as-you-go procedures would apply to the bill.